

VERONICA M. AGUILAR, ESQ. (SBN 153288)  
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Attorney for Plaintiff,  
**DONOVAN J. FOSTER**

**THE UNITED STATES DISTRICT COURT IN AND FOR  
THE CENTRAL DISTRICT OF THE STATE OF CALIFORNIA**

DONOVAN J. FOSTER, an Individual,

Plaintiff,

v.

The United States of America, the Department of  
Veteran Affairs, an agency of the United States  
of America, and Secretary Denis McDonough, an  
individual.

Defendant(s).

Case No.: 2:22-cv-08522 FWS-PVC

**NOTICE OF MOTION AND MOTION FOR  
VERONICA M. AGUILAR AND THE LAW  
OFFICES OF VERONICA M. AGUILAR'S  
MOTION TO WITHDRAW AS  
ATTORNEY OF RECORD FOR  
PLAINTIFF, DONOVAN J. FOSTER**

**TIME: 10:00AM  
DATE: AUGUST 09, 2023  
DEPT: 590, 5<sup>TH</sup> FLOOR  
JUDGE: PEDRO V. CASTILLO**

Notice is hereby given that on August 10, 2023, at 10:00am in the above-captioned Court,  
The Law Offices of Veronica M. Aguilar, A.P.C. and Veronica M. Aguilar (hereafter "Aguilar")  
will and herby does move to withdraw as counsel of record for Plaintiff, DONOVAN J. FOSTER.

By this motion, Aguilar seeks an order from the Court permitting Aguilar to withdraw as  
Counsel, pursuant to Southern District Local Rule 83.3(g)(3), on the grounds that Plaintiff,  
DONOVAN J. FOSTER, intends to proceed to represent himself. Plaintiff FOSTER told Ms.

1 Aguilar he wants to relieve counsel of her duties, as Plaintiff FOSTER intends to represent *in pro*  
2 *per*.

3 This motion is based on the attached Memorandum of Points and Authorities and the  
4 Declaration of Veronica M. Aguilar, Esq. As set forth in the Declaration of Ms. Veronica M.  
5 Aguilar, Aguilar provided notice of her motion to withdraw as Counsel for Plaintiff.  
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8 **LAW OFFICES OF VERONICA M. AGUILAR, A.P.C.**

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10 By: /s/ Veronica M. Aguilar  
11 Dated: July 3, 2023, Veronica M. Aguilar, Attorney for Plaintiff  
12 **DONOVAN J. FOSTER.**  
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1                                   **MEMORANDUM OF POINTS AND AUTHORITIES**

2   **I.**

3   **INTRODUCTION**

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5           Aguilar brings this motion to withdraw as counsel of record for DONOVAN J. FOSTER

6 based on the fact DONOVAN J. FOSTER **terminated Ms. Aguilar's services**. This solid reason

7 provides independent grounds for withdrawal under the California Rules of Professional Conduct,

8 which govern the Attorney-Client relationship in California. Accordingly, as discussed further

9 below, Aguilar respectfully requests that its motion for leave to withdraw as counsel be granted.

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11   **II.**

12   **STATEMENT OF ISSUE TO BE DECIDED**

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14           Whether Aguilar is permitted to withdraw as counsel of record for DONOVAN J. FOSTER

15 (“Plaintiff”) where Plaintiff, FOSTER advised Ms. Aguilar he wants to proceed in this matter by

16 representing himself.

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18   **III.**

19   **STATEMENT OF FACTS**

20           On November 11, 2022, Plaintiff filed a Complaint for Negligence against the above-

21 captioned Defendants. On March 8, 2023, Defendants filed a Motion to Dismiss and on March 27,

22 2023, Plaintiff FOSTER filed his Opposition. On May 12, 2023, this Court issued an Order to

23 Dismiss the matter and provided Plaintiff with thirty (30) days to amend. Plaintiff filed an Amended

24 Complaint (in pro per) on June 12, 2023.

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1 IV.

2 ARGUMENT

3 Aguilar makes this motion under Southern District Local Rule 83.3(g)(3), which permits  
4 counsel of record to withdraw from a case once relieved by order of the Court.”

5 The merits of a motion by an attorney to withdraw are governed by the law of the state that  
6 controls the attorney-client relationship. *See White Consolidate Industries, Inc. v. Island Kitchens,*  
7 *Inc.*, 884 F. Supp. 176, 179 (E.D. Pa 1995); *see also Mindscape, Inc. v. Media Depot, Inc.* 973 F.  
8 Supp. 1130, 1131 (N.D. Cal. 1997) (applying California law to motion to disqualify counsel).  
9 California law governs this motion.

10 Rule 3.700 of the California Rules of Professional Conduct identifies the grounds for  
11 counsel's mandatory and permissive withdrawal. Subdivision (C)(1)(f) of that rule provides that an  
12 attorney may withdraw when “the client. . . breaches an agreement or obligation to the member as  
13 to expenses or fees.” Additionally, subdivision (C)(1)(d) permits withdrawal from counsel if a  
14 client “by other conduct renders it unreasonably difficult for the member to carry out the  
15 employment effectively.”

16 As outlined in the accompanying declaration of Veronica M. Aguilar, Aguilar has  
17 demonstrated its grounds for withdrawal satisfy Rule 3.700. Plaintiff, FOSTER, made it abundantly  
18 clear he no longer desires the services of Aguilar and intends to appear before this court *In Pro Per*.

19 In compliance with Southern District Local Rule 83.3(g)(3), Aguilar provided advance  
20 notice to Plaintiff, FOSTER, and Plaintiff’s need to understand the complications of being *In Pro*  
21 *Per* and that Plaintiff will be expected to know the rules as an attorney would.

22 V.

23 CONCLUSION

24 For the foregoing reasons, Aguilar respectfully asks this Court for an Order relieving it as  
25 Counsel of record for Defendant.

26 **Dated: June 26, 2023**

**LAW OFFICES OF VERONICA M. AGUILAR, A.P.C.**

27 By: /s/ Veronica M. Aguilar

28 Veronica M. Aguilar, Attorney for Plaintiff,  
DONOVAN J. FOSTER